



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 14-5

December 18, 2014

Petition of T-Mobile Northeast LLC to Relinquish Its Eligible Telecommunications Carrier Designation Pursuant to 47 U.S.C. § 214(e)(4)

ORDER

I. INTRODUCTION

T-Mobile Northeast LLC (“T-Mobile” or “Company”) has requested that the Department of Telecommunications and Cable (“Department”) allow it to relinquish its Lifeline-only Eligible Telecommunications Carrier (“ETC”) designation pursuant to 47 U.S.C. § 214(e)(4). The Department grants T-Mobile’s request for the reasons set forth below.

II. PROCEDURAL HISTORY

On August 30, 2012, the Department granted T-Mobile’s petition for limited designation as a wireless ETC for purposes of low income support only. *T-Mobile Ne. LLC Petition for Ltd. Designation as an Eligible Telecomms. Carrier for Purposes of Low Income Support Only*, D.T.C. 12-4, *Order Approving Petition* (Aug. 30, 2012). Specifically, the Department designated T-Mobile as an ETC for purposes of offering wireless Lifeline service throughout its designated service area.¹ *Id.* at 1. T-Mobile did not request high-cost support. *Id.* at 2.

On October 9, 2014, T-Mobile filed a petition requesting the relinquishment of the Company’s ETC designation, effective December 31, 2014 (“Petition”). Petition at 1. The

¹ See Petition at Exh. A.

Department issued five Information Requests to T-Mobile, to which the Company responded on November 7, 2014. IR 1-1, *et seq.* The Department held a public hearing in this proceeding on November 13, 2014. *See* Public Hearing Transcript of Record. The Department received no intervention requests and no public comments in this proceeding. *See id.* At the Department's request, T-Mobile filed revised responses to IR 1-2 and IR 1-3, including a revised Exhibit B, on November 19, 2014. *See* Revised IR 1-2, 1-3.

III. ANALYSIS AND FINDINGS

The Department finds that T-Mobile has met the standard for relinquishment of a wireless, low income only ETC designation under 47 U.S.C. § 214(e)(4), and the Department's requirements for discontinuance of Lifeline service in Massachusetts. 47 U.S.C. § 214(e)(4); *Investigation by the Dep't on its Own Motion into the Implementation in Mass. of the FCC's Order Reforming the Lifeline Program*, D.T.C. 13-4, *Order Implementing Requirements* at 21, Appendix (Aug. 1, 2014) ("13-4 Order").

A. Federal Requirements

Section 214(e)(4) provides the following:

A State commission . . . shall permit an [ETC] to relinquish its designation as such a carrier in any area served by more than one [ETC]. An [ETC] that seeks to relinquish its [ETC] designation for an area served by more than one [ETC] shall give advance notice to the State commission . . . of such relinquishment. Prior to permitting a telecommunications carrier designated as an [ETC] to cease providing universal service in an area served by more than one [ETC], the State commission . . . shall require the remaining [ETC(s)] to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining [ETC]. The State commission . . . shall establish a time, not to exceed one year after the State commission . . . approves such relinquishment under this paragraph, within which such purchase or construction shall be completed.

47 U.S.C. § 214(e)(4); *see also* 47 C.F.R. § 54.205. Thus, for the Department to grant an ETC's petition to relinquish a wireless, low income only ETC designation: (1) there must be more than one ETC serving the service area; (2) the ETC must give the Department advance notice of its intent to relinquish its ETC designation; (3) the remaining ETC(s) in the service area must ensure that all of the relinquishing ETC's customers will continue to be served; and (4) to the extent that additional facilities are required to serve any of those customers, there must be sufficient notice to allow the remaining ETC(s) to construct or purchase those additional facilities. T-Mobile has met this standard.

First, T-Mobile's entire designated service area is served by more than one ETC, inclusive of T-Mobile. *See* 47 U.S.C. § 214(e)(4). T-Mobile's designated service area is its coverage area as it corresponds to the service areas of Granby Telephone and Telegraph Co., Richmond Telephone Co., Southern New England Telephone Co., Taconic Telephone Corp., and Verizon New England Inc. (collectively, "ILEC ETCs"), which collectively serve the entire Commonwealth of Massachusetts. *See* Petition at Exh. A. T-Mobile correctly states that each of the ILEC ETCs has been designated as an ETC. Petition at 4; *Investigation by the Dep't of Telecomms. & Energy on its own motion concerning (1) designation of eligible telecomms. carriers, pursuant to § 102 of the Telecomms. Act of 1996 ("Act"); (2) participation in the FCC's modified Lifeline program & acceptance of increased fed. funding, pursuant to 47 C.F.R. §§ 54.400-54.417 et seq.; & (3) participation in the FCC's program for discounted intrastate rates for telecomms. servs. for rural health care providers, pursuant to § 254(h) of the Act, D.T.E. 97-103, Order* (Dec. 23, 1997); Letter from Robert J. Murphy, Sec'y, Conn. Dep't of Pub. Util. Control, to Universal Serv. Admin. Co. (Dec. 16, 1997). Given the presence of these

ETCs as well as T-Mobile in the designated service area, T-Mobile has persuaded the Department that there is more than one ETC serving its designated service area.²

Second, T-Mobile gave the Department advance notice of its intent to relinquish its ETC designation. *See* 47 U.S.C. § 214(e)(4). T-Mobile filed the Petition on October 9, 2014, eighty-three days before the Company's intended relinquishment of its ETC designation, and 143 days before its intended discontinuance of courtesy credits in the amount of the \$9.25 Lifeline monthly discount. Petition at 1, 7; IR 1-2 (indicating that T-Mobile will continue to provide a \$9.25 monthly discount to its Lifeline customers for sixty days after relinquishment of its ETC designation in Massachusetts in the form of courtesy credits). T-Mobile states that this satisfies the notice requirement of section 214(e)(4). Petition at 5. The Department finds that T-Mobile's notice is sufficient advance notice for purposes of the Company's intent to relinquish a wireless, low income only ETC designation.

Third, T-Mobile's Lifeline customers "will continue to be served" upon the Company's relinquishment of its ETC designation. 47 U.S.C. § 214(e)(4). The ILEC ETCs are required to ensure that every community in Massachusetts is served. 47 C.F.R. § 54.201(d)(1); *see also* *Petition of the Atty. Gen. for a Generic Adjudicatory Proceeding Concerning Intrastate Competition by Common Carriers in the Transmission of Intelligence by Elec., Specifically with Respect to Intra-LATA Competition, & Related Issues, Filed with the Dep't on Dec. 20, 1983, D.P.U. 1731, Order at 71-77 (Oct. 18. 1985)*. Further, T-Mobile states that it will continue to provide non-Lifeline wireless service in the designated service area, ensuring that its Lifeline

² T-Mobile notes the presence of other ETCs in Massachusetts. Petition at 4-5. While T-Mobile is correct that the Department has designated other carriers as ETCs in Massachusetts, the ILEC ETCs, collectively, serve the entire Commonwealth of Massachusetts so their presence is sufficient for T-Mobile to meet the federal standard for relinquishment of its ETC designation. *See* 47 U.S.C. § 214(e)(4). The Department need not reach the issue of whether the presence of ETCs that collectively do not serve the entire designated service area of an ETC petitioning for relinquishment of its designation is sufficient for that ETC to meet the federal relinquishment standard.

customers can, if they choose, retain T-Mobile wireless service. Petition at 2-3, 5. Given the obligations of the ILEC ETCs, along with T-Mobile's commitment to continue to provide service, the Department finds that T-Mobile's Lifeline customers "will continue to be served" upon the Company's relinquishment of its wireless, low income only ETC designation. 47 U.S.C. § 214(e)(4).

Fourth, as T-Mobile correctly notes, adequate facilities exist for the ILEC ETCs to serve T-Mobile's Lifeline customers. *See* 47 U.S.C. § 214(e)(4); Petition at 6. Therefore, and because the ILEC ETCs collectively serve the entire Commonwealth of Massachusetts, the Department need not require notice to permit the purchase or construction of any additional facilities.³

As a result of the foregoing, the Department finds that T-Mobile has met the federal standard for relinquishment of a wireless, low income only ETC designation under 47 U.S.C. § 214(e)(4).

B. State Requirements

Under the Department's 13-4 Order, each ETC that plans to cease offering Lifeline service in Massachusetts must, at a minimum, (1) notify its Lifeline customers and the Department sixty days in advance of the ETC's planned discontinuance of Lifeline service in Massachusetts and (2) work in good faith with its Lifeline customers and the Department to facilitate smooth transition of customers to alternative ETCs of the customers' choice ("13-4 Requirements").⁴ 13-4 Order at 21, Appendix. The Department finds that T-Mobile has met this standard.

³ It follows, then, that the Department also need not establish a time within which such purchase or construction shall be completed. *See* 47 C.F.R. § 214(e)(4).

⁴ Certain carriers have additional requirements if they cease offering service altogether in Massachusetts. *See Proceeding by the Dep't of Telecomms. & Energy on its own Motion to Develop Requirements for Mass Migrations of Telecomms. Serv. End-Users*, D.T.E. 02-28, *Order* (Aug. 7, 2002). These additional requirements do not apply to T-Mobile because T-Mobile will continue to provide non-Lifeline service in Massachusetts. Petition at 2-3; *see also* D.T.C. 13-4, *Notice of Proposed Requirements & Further Request*

The Department finds that T-Mobile has given the Department, and has committed to give its Lifeline customers sufficient notice of the relinquishment of its ETC designation, in satisfaction of the 13-4 Requirements. T-Mobile filed the Petition, notifying the Department of its planned ETC designation relinquishment on October 9, 2014, eighty-three days before the Company's intended relinquishment. Petition at 1. This satisfies the requirement to give sixty-day advance notice to the Department under the 13-4 Requirements. In addition, T-Mobile has committed, upon the Department's granting of the Petition, to provide its Lifeline customers notice stating that while it has ended its participation in the Lifeline program, the Company will provide its Lifeline customers courtesy credits equal to the Lifeline monthly discount for the next sixty days. Petition at 6; Revised IR 1-2 at Exh. B. By providing courtesy credits in the amount of the Lifeline discount for sixty days after the Company gives notice of its ETC relinquishment to its Lifeline customers, T-Mobile has met the notice requirement in the 13-4 Requirements.

The Department also finds that T-Mobile has worked in good faith with the Department and has committed to continue to work in good faith with the Department and the Company's Lifeline customers to facilitate smooth transition of those customers to alternative ETCs should they choose to change providers. At the Department's request, T-Mobile modified its customer notice of the relinquishment of its ETC designation. *Compare* IR 1-2 at Exh. B, *with* Revised IR 1-2 at Exh. B. In addition, T-Mobile committed to sending a text message to its Lifeline customers—in addition to the customer notice—thirty days before their courtesy credits run out, reminding them of the Company's withdrawal from the Lifeline program and that they will lose their discount in thirty days. *See* Revised IR 1-2. In addition, T-Mobile committed to continue to work in good faith with the Department and the Company's Lifeline customers to facilitate the

for Comment at 26 (Aug. 21, 2013) (choosing not to apply the Department's "Mass Migration" requirements to wireless ETCs).

smooth transition of those customers to alternative ETCs should they choose to change providers. Petition at 7. The Department finds that T-Mobile's willingness to work with the Department to alter its proposed relinquishment plan to the benefit of its Lifeline customers, along with its forward-looking commitments satisfy the good faith requirement of the 13-4 Requirements.

IV. CONCLUSION

T-Mobile has met the federal standard for relinquishment of a wireless, low income only ETC designation, and has met the Department's requirements for discontinuance of Lifeline service in Massachusetts. Accordingly, the Department grants T-Mobile's Petition.

V. ORDER

After notice, hearing, and consideration, it is hereby

ORDERED: that the Department GRANTS T-Mobile Northeast LLC's Petition to relinquish its wireless, low income only ETC Designation in Massachusetts, effective December 31, 2014, subject to the commitments set forth herein; and it is

FURTHER ORDERED: that T-Mobile Northeast LLC SHALL TRANSMIT a copy of this Order to the Universal Service Administrative Company.

By Order of the Department:

Karen Charles Peterson

Karen Charles Peterson, Commissioner

RIGHT OF APPEAL

Pursuant to G.L. c. 25, § 5, and G.L. c. 166A, § 2, an appeal as to matters of law from any final decision, order or ruling of the Department may be taken to the Supreme Judicial Court for the County of Suffolk by an aggrieved party in interest by the filing of a written petition asking that the Order of the Department be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Department within twenty (20) days after the date of service of the decision, order or ruling of the Department, or within such further time as the Department may allow upon request filed prior to the expiration of the twenty (20) days after the date of service of said decision, order or ruling. Within ten (10) days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court for the County of Suffolk by filing a copy thereof with the Clerk of said Court. Appeals of Department Orders on basic service tier cable rates, associated equipment, or whether a franchising authority has acted consistently with the federal Cable Act may also be brought pursuant to 47 C.F.R. § 76.944.